

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

IN THE MATTER OF THE APPLICATION)	
OF ISLAND AQUACULTURE CORPORATION)	
FOR RENEWAL OF AN AQUACULTURE)	FINDINGS OF FACT,
LEASE LOCATED IN TOOTHACKER COVE,)	CONCLUSIONS OF LAW AND
SWANS ISLAND, MAINE)	DECISION

On September 15, 1998, Island Aquaculture Corporation made application for renewal of an aquaculture lease issued to them on June 5, 1999. The application requested a ten-year renewal to June 4, 1999 of an 18 acre finfish lease located in Toothacker Cove, Swans Island, Hancock County, Maine.

Notice of the application for lease renewal was published in the April 1999 issue of Commercial Fisheries News and the March 25, 1999 and April 8, 1999 issues of the Ellsworth American. Members of the public and interested parties were given to April 24, 1999 to request a hearing on the application for lease renewal. No requests for a hearing on this application were received by the Department either on, or before, April 24, 1999, or at any time subsequent to the date of this decision.

Applications for aquaculture lease renewals are governed by 12 M.R.S.A. §6072(12), which provides that an aquaculture lease may be renewed if the lessee has complied with the original lease agreement during its term, that aquaculture has been conducted on the original lease, and that the renewal will not cause the lessee to be a tenant of any kind in aquaculture leases covering an aggregate of more than 250 acres.

Evidence Concerning
the Lease Renewal

One comment was received from a riparian. The riparian questioned the location of the lease indicating that, in his opinion, the location of the lease was south by quite a distance.

An independent consultant, accompanied by the Department's Aquaculture Environmental Coordinator (AEC), inspected the positions of the lease boundary corner markers using differential global positioning systems (dgps). The corner coordinates were compared to

the metes and bounds description of the lease. The individual corner markers were found to be located southerly of the lease metes and bounds description of each corner by approximately 250 to 500 feet.

Findings of Fact

According to Department records, the lessee has conducted aquaculture and complied with the original lease agreement with the exception that the boundary markers have shifted to the south by approximately 250' to 650' and the pen structures up to 100' south. Based on the evidence that the lessee has conducted aquaculture and complied with the original lease agreement, I find that the renewal of the lease is in the best interests of the State with the additional condition that the lease corner and any boundary markers be inspected and repositioned as needed to comply with the metes and bounds description as set forth in the original lease. Department records indicate that the lessee does not hold leases exceeding an aggregate of more than 250 acres.

Conclusions

The evidence in the administrative record supports a finding that the lessee meets the requirements for the renewal for an aquaculture lease set forth in 12 M.R.S.A. §6072(12).

Decision

The Commissioner of Marine Resources grants the application of Island Aquaculture Corporation to renew an 18 acre aquaculture lease, located in Toothacker Cove, Swans Island, Maine, for a period of ten years, to June 4, 2009. In renewal of this lease, Island Aquaculture Corporation is subject to the same terms, conditions, and obligations set forth in the original lease, plus one additional condition. The applicant shall provide documentation, verified by the AEC, that the corner markers, boundary markers, and structures are located within the metes and bounds description as set forth in the original lease, within 60 days of the date of this decision.

Dated:

George D. Lapointe (Commissioner)
Department of Marine Resources